

1  
2  
3  
4  
5  
6  
7 NOT FOR CITATION  
8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
10 SAN JOSE DIVISION  
11

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 ROBERT RUVALCABA,

16 Defendant.  
17  
18  
19

Case No. CR 01-20005 JF

ORDER DENYING MOTION FOR  
COA WITH RESPECT TO ORDER  
DENYING RELIEF UNDER FRCP  
60(b)

20 Defendant Robert Ruvalcaba ("Ruvalcaba") pled guilty to one charge of conspiracy to  
21 distribute five hundred grams or more of methamphetamine and was sentenced to a term of  
22 imprisonment of 168 months. The Court of Appeals dismissed Ruvalcaba's appeal after  
23 concluding that his plea was knowing and voluntary and that the plea colloquy was not  
24 ambiguous or defective. Ruvalcaba subsequently filed a motion for relief pursuant to 28 U.S.C.  
25 § 2255, which motion was denied by this Court. This Court also denied Ruvalcaba's motions for  
26 reconsideration and for certificate of appealability. The Court of Appeals denied Ruvalcaba's  
27 subsequent appeal and ordered that no other motions or other submissions would be considered  
28 in Ruvalcaba's case. Ruvalcaba subsequently filed a motion for relief from this Court's

1 judgment pursuant to Federal Rule of Civil Procedure 60(b), which was denied by order dated  
2 May 23, 2006.

3 On June 28, 2006, Ruvalcaba submitted a motion for certificate of appealability ("COA")  
4 with respect to this Court's denial of his Rule 60(b) motion. The Clerk's Office docketed the  
5 motion as "received" in light of the Ninth Circuit's bar against further filings in this case. It is  
6 unclear whether the Ninth Circuit's bar extends to filing in this Court as well as the Court of  
7 Appeal. Even assuming that Ruvalcaba's motion properly is before this Court, however, the  
8 motion is without merit, because Ruvalcaba's Rule 60(b) motion was so clearly without merit.

9 Accordingly, Ruvalcaba's motion for COA is DENIED.

10 IT IS SO ORDERED.

11  
12 DATED: 7/18/06

13  
14   
15 JEREMY FOGEL  
United States District Judge

Copies of Order served on:

Robert Ruvalcaba  
No. 99468-111  
Federal Prison Camp  
3705 West Farm Road  
Lompoc, CA 93436

John N. Glang  
Assistant United States Attorney  
Office of the United States Attorney  
150 Almaden Blvd., Suite 900  
San Jose, CA 95113